



31 OCT 2006

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In re Application of	:	
HAYAMA, et al.	:	
U.S. Application No.: 10/537,527	:	DECISION ON PETITION
PCT No.: PCT/JP03/08618	:	
Int. Filing Date: 07 July 2003	:	UNDER 37 CFR 1.10(e)
Priority Date: 04 December 2002	:	
Attorney Docket No.: 4777-65	:	
For: NON-CONTACT POWER-SOURCE-LESS	:	
IC CARD SYSTEM	:	

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment" filed 18 August 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

BACKGROUND

On 07 July 2003, applicant filed international application PCT/JP03/08618 which claimed priority to an earlier application filed 04 December 2002. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 2005.

On 03 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee and an English translation of the international application.

On 19 September 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 13 July 2006, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the present application was abandoned as to the United States for failure to respond to the Form PCT/DO/EO/905 mailed 19 September 2005.

On 18 August 2006, applicant filed the present petition arguing that a timely response had been filed by Express Mail on 13 October 2005.

DISCUSSION

37 CFR 1.10(e) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
- (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied all four items above.

Regarding item 1, applicant filed the petition promptly after receiving the Form PCT/DO/EO/909.

As to item 2, the Express Mail number of EV507599865US was listed on the transmittal letter for the subject filing.

Regarding items 3 and 4, applicant has included copies of the subject filing, as well as, a copy of the Express Mail mailing label and the track and confirm report from the USPS website showing acceptance by the USPS and ultimate delivery and acceptance by the

USPTO. In addition, applicant has certified that these copies are true copies of the originally mailed correspondence and USPS paperwork.

As such, it is proper to grant applicant's petition at this time.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (e) is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 13 July 2006 is hereby **VACATED**.

The application has an international filing date of 07 July 2003 under 35 U.S.C. 363 and will be given a date of **13 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision; namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the 371 date listed above.



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